

Notice of Allowability

Application No.

10/670,256

Applicant(s)

MIYATA, HIROKATSU

Examiner

William P. Fletcher III

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's amendment and response filed 10 August 2005.
2. ☒ The allowed claim(s) is/are 1.
3. ☒ The drawings filed on 26 September 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/657,616.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Response to Amendment

1. Receipt is acknowledged of applicant's amendment and response filed 10 August 2005. To clarify the record at this point in the prosecution, claim 1 is the only claim pending.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. The examiner further acknowledges that, based on the evidence provided by applicant, these papers were previously filed in parent application 09/657,616.

Response to Arguments

3. Applicant's arguments, see the response, filed 10 August 2005, with respect to the objections and rejections under 35 U.S.C. § 103(a), set-forth in the Office action mailed 11 May 2005, have been fully considered and are persuasive.

Applicant has amended the title and specification to overcome the objections.

Further, applicant has amended claim 1 to recite the allowable subject matter of claim 19 and the intervening subject matter of claim 18, and cancelled claims 2-4 and 7-22.

Lastly, since the provisional obviousness-type double patenting rejection in view of later-filed application 10/623,561 is the only outstanding rejection in this case, it has been withdrawn pursuant to MPEP § 804(I)(B).

Consequently, all objections and rejections set-forth in the prior Office action have been withdrawn and the application is in condition for allowance.

Allowable Subject Matter

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4. Claim 1 is allowed.

5. The following is an examiner's statement of reasons for allowance: the reasons for allowance remain the same as set-forth under this heading in the prior Office action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kuroda et al. (US 6,846,546 B2) is cited as the US patent document disclosing subject matter closest to that of applicant's invention. This document, like those cited in the prior Office action, teaches rubbing to orient tubular mesopores in the direction of rubbing (i.e., parallel). As such, it does not read on the claim which recites rubbing to orient tubular mesochannels in a direction perpendicular to rubbing.

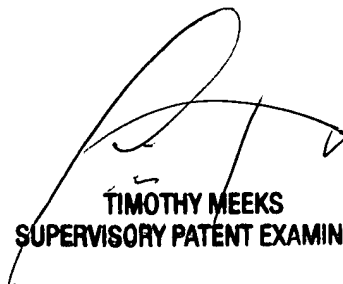
Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Monday through Friday, 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WPF 8/17/2005
William Phillip Fletcher III
Patent Examiner, USPTO
Art Unit 1762


TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER